## *Remarks*

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 89-175 are pending in the application, with claims 89, 91, 93, 98-103, 105, 106, 108, 109, 117, 118 and 122-124 being the independent claims. New claims 174 and 175 are sought to be added. Claims 160 and 168 are sought to be amended. No new matter is added by way of these amendments, and their entry is respectfully requested.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

### *I. Support for Amended and New Claims*

Support for the amendment to claims 160 and 168 can be found throughout the specification, for example, at page 23, lines 14-16.

Support for new claims 174 and 175 can be found throughout the specification, for example, at page 26, lines 20-22.

### *II. Claim Rejections Under 35 U.S.C. § 112, First Paragraph*

The rejection of claims 89-126 under 35 U.S.C. § 112, first paragraph, for alleged lack of enablement was withdrawn. *See* Paper No. 29, page 4.

### *III. Claim Rejections Under 35 U.S.C. § 112, Second Paragraph*

Claims 160 and 168 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. *See* Paper No. 29, page 6. This rejection is based on the use of the trademark "Albumax®" in claims 160 and 168. *See* Paper No. 29, pages 6-7. Applicants have replaced the term "Albumax®" with "lipid-rich albumin" in claims 160 and 168. Thus, the rejection under 35 U.S.C. § 112, second paragraph, has been fully accommodated and should be withdrawn.

### *IV. Claim Rejections Under 35 U.S.C. § 102*

Claims 89-103, 105-111, 117-127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 151, 153, 157-159, 161-164, 166, 167 and 169-172 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,405,772 to Ponting ("Ponting"). *See* Paper No. 29, page 7. Applicants respectfully traverse this rejection.

An anticipation rejection under 35 USC § 102 requires a showing that each element of a claim is found in a single reference, practice, or device. *See In re Donohue*, 766 F.2d 531, 226 USPQ 619, 621 (Fed. Cir. 1985). The present claims are directed to compositions, methods, and products of manufacture that encompass or include the use of a serum-free eukaryotic cell culture medium supplement. Ponting, by contrast, relates to *complete media*. Ponting does not teach a cell culture medium supplement. Thus, Ponting does not teach all of the elements of any of the claims. Applicants respectfully request that this rejection be reconsidered and withdrawn.

## *V. Claim Rejections Under 35 U.S.C. § 103*

Claims 89-173 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Ponting, or in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Ponting. *See* Paper No. 29, page 9. Applicants respectfully traverse this rejection.

A *prima facie* case of obviousness cannot be established unless all of the claim elements are taught or suggested by the cited references. *See In re Royka*, 490 F.2d 981, 984-85 (CCPA 1974); *see also In re Glaug*, 283 F.3d 1335, 1341-42 (Fed. Cir. 2002); *In re Rijckaert*, 9 F.3d 1531, 1533 (Fed. Cir. 1993). As noted above, Ponting does not teach or suggest a cell culture medium supplement. Thus, Ponting does not teach or suggest all of the claim elements.

In addition, in order to establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. *See In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998). The obviousness rejection is based on the assertion that "though Ponting does not specifically disclose the specific components listed in the remaining claims [*i.e.*, the claims not included in the rejection under § 102], the use of these components would be obvious because they are factors commonly used in cell culture." *See* Paper No. 29, page 11.

Applicants respectfully note that, in an obviousness analysis, evidence of a motivation to modify a reference must be "clear and particular." *See In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). No evidence has been presented to support the assertion that the specific components listed in the claims "are factors commonly

used in cell culture." Moreover, regardless of the accuracy of this assertion, it does not constitute clear and particular evidence of a *motivation* to modify Ponting.

Since Ponting does not teach all of the elements of the claims, and since no clear and particular evidence has been presented to indicate that a person of ordinary skill in the art would have been motivated to modify Ponting, a *prima facie* case of obviousness has not been established. Applicants respectfully request that this rejection be reconsidered and withdrawn.

## *Conclusion*

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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